

**VERMONT BOARD OF MEDICAL PRACTICE**  
**Minutes of the January 6, 2016 Board Meeting**  
**Gifford Medical Center, Randolph, Vermont**

**Unapproved**

**1. Call to Order; Introduce New Members; Call the Roll; Acknowledge Guests:**

William K. Hoser, PA-C called the meeting to order at 12:24 P.M.

**Members Present:**

Richard Bernstein, MD; Brent Burgee, MD; Richard Clattenburg, MD; Allen Evans; Faisil Gill; Patricia Hunter; David A. Jenkins; David Liebow, DPM; Sarah McClain; Christine Payne, MD; Joshua Plavin, MD; Harvey Reich, MD; Marga Sproul, MD.

**Others in Attendance:**

David Herlihy, Executive Director; Paula Nenninger, Investigator; Christiana Coyner, Board Investigator; Karen LaFond, Operations Administrator; Margaret Vincent, AAG; Katherine Poule, AAG; Bill Reynolds, AAG; Harry Chen, MD, Commissioner, Vermont Department of Health.

**2. Public Comment:**

None

**3. Approval of Minutes of the February 3 and February 17, 2016 Board Meetings:**

Dr. Bernstein moved to accept the minutes of the February 3, 2016 meeting. Dr. Hayward seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

Mr. Jenkins moved to accept the minutes of the February 17, 2016 meeting. Ms. McClain seconded the motion. The motion passed; opposed: none; recused: none; abstained: none.

**4. Board Issues (Mr. Hoser):**

Mr. Hoser welcomed Comm. Harry Chen.

**5. Commissioner Harry Chen, MD – Discussion regarding the VDH Policy Memo on Analysis of Opioid Prescribing Patterns as requested by Board members. In addition, he will provide an updates on: the current legislative session from the VDH perspective; healthcare reform initiatives; and, the all-payer waiver concept.**

Comm. Harry Chen, MD addressed the Board, first thanking members for their service. He explained to members that the Policy Memo on Analysis of Opioid Prescribing Patterns was not in any way intended to establish a standard of care. Act 75 of 2013 called for establishment of a policy, and its design borrowed from a successful program in a Vermont hospital that influenced outliers to change practice patterns by providing information that

prompted a regression to the median. Dr. Chen explained that the policy should be considered as a strategy for education and assessment, and not as an additional requirement to be met by prescribers.

The discussion then turned to VPMS generally, with clinician members providing Dr. Chen feedback on the system from the user's perspective. Concerns were expressed about the time and effort it takes to check a patient. Dr. Chen stated that there is a new vendor and that there is a dedicated effort to improve usability and ease of access. Mr. Herlihy stated that the new system has the capability to search multiple patients in one search, and an email message will be sent out this month to all licensees with that tip.

Dr. Chen discussed pending legislation. He noted that efforts to date to control opioid prescribing have not resulted in any change in the total number of prescriptions over the past 5 years. That is behind proposals such as the "10 pill limit" brought up in the Governor's State of the State address and the introduction of a bill in Massachusetts that proposed a 3-day limit. One member noted that efforts to make it harder to prescribe by adding barriers have not been effective and that there are costs to making things more difficult. Dr. Chen offered that now a 10-day limit being discussed in the Legislature, along with a requirement for the Health Department to develop acute pain treatment guidelines. He also outlined the plan for establishing a disposal system for unused drugs that is part of the current proposal.

Dr. Chen also noted that members should expect to see more information sharing among states for Prescription Monitoring Programs, as agreements are made and the IT challenges are met. Finally, he briefly explained the "all payer waiver." This is a next step in lieu of the single payer system that did not work out. In short, it is a program that uses aspects of the single-payer methodology and incorporates quality components. He added that Vermont is well-positioned to try such a program because of the way our ACOs are structured.

#### **6. Administrative Update (Mr. Herlihy):**

Mr. Herlihy noted that Ms. Hayes and Ms. LaFond are hard at work testing a major update to the online system and that the plan is to implement that before the LTL application period opens this spring.

Mr. Herlihy informed members that the Board and BU Medical School have agreed that the next edition of the SCOPE of Pain CME training will be offered in Burlington on September 10, 2016.

Mr. Herlihy also advised that the discussion of the Board's statement on use of lasers is being postponed. He stated his agreement with Ms. Vincent's suggestion that the Board should obtain an updated expert presentation as part of taking up the issue, given the time that has passed since the statement was issued in 2008. Staff will locate an expert and it will be scheduled in coming months.

Mr. Herlihy reported on the FSMB meeting that he attended on March 8. FSMB facilitated a discussion of information concerning the Supreme Court case of **FTC vs. North Carolina Board of Dental Examiners**. Two leading experts in antitrust law were present. Helpful

advice was provided at the meeting on how to minimize the potential for antitrust issues and there was discussion of possible legislative solutions at the federal level for the long term.

**7. Presentation of Applications (12:30 p.m. – 12:45 p.m.):**

Applications for physician and physician assistant licensure, and certifications of radiologist and anesthesiologist assistants were presented and acted upon as detailed in Appendix A, incorporated by reference into these minutes.

**8. Recess; Convene hearing to discuss any stipulations or disciplinary matters that are before the Board (1:15 p.m. – 1:45 p.m.)**

None

**9. Reconvene meeting; Executive Session to Discuss:**

- **Investigative cases recommended for closure**
- **Other matters that are confidential by law, if any**

Dr. Clattenburg made a motion at 1:26 p.m. to enter into Executive Session to discuss confidential matters related to investigations. Dr. Reich seconded the motion. The motion passed: opposed: none; abstained: none; recused: none

**10. Return to Open Session; Board Actions on matters discussed in Executive Session:**

Dr. Bernstein made a motion at 2:17p.m. to return to Open Session. Dr. Hayward seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

**Dr. Hawyard, North Investigative Committee, asked to close:**

MPN 003-0116 – Letter #1

MPN 019-0113 – Special Letter #2; Dr. Payne, Dr. Plavin and Mr. Evans recused.

Dr. Clattenburg made a motion to close the cases presented. Dr. Bernstein seconded the motion. The motion passed; opposed: none; abstained: none; recused: 3 and North Investigative Committee.

**Mr. Jenkins, Central Investigative Committee, asked to close:**

MPC 169-1115 – Special Letter #1; Dr. Sproul and Dr. Bernstein recused.

Dr. Reich made a motion to close the cases presented. Ms. Hunter seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and Central Investigative Committee.

**Dr. Reich, South Investigative Committee, asked to close:**

MPS 002-0116 – Letter #1

MPS 119-0715 – Special Letter #1; Dr. Sproul recused

MPS 040-0415 – Special Letter #2; Dr. Payne recused  
MPS 119-1014 – Special Letter #3; Dr. Payne recused  
MPS 170-1115 – Special Letter #1; Dr. Sproul recused  
MPS 173-1115 – Letter #1  
MPS 172-1115 – Letter #1

Dr. Hayward made a motion to close the cases presented. Dr. Clattenburg seconded the motion. The motion passed; opposed: none; abstained: none; recused: 2 and South Investigative Committee.

**11. Board Actions on Committee recommendations with regard to any non-confidential matters:**

None

**12. Other Business:**

Legislative update on bills of interest to Board:

Mr. Herlihy reviewed the information he disseminated to members prior to the meeting regarding S.258, Access to Treatments for Patients with a Terminal Illness. He noted that although the Board has not been asked for a formal position on the legislation, he wanted to make members aware of the bill. The bill includes an immunity provision that may be of concern because it is written in very broad terms. If there is movement of the bill, he will work to make the concerns about that wording known.

He noted that the strike-all version of S.243 outlined by Dr. Chen had resolved many of the issues identified with the original versions of S.201 and 243, and that he would continue to follow that bill.

He advised that he anticipated being asked to provide the Board's input on H.559, the bill on team physicians, and H.690, the bill allowing physicians to perform acupuncture under their medical licenses.

VPHP update:

Mr. Herlihy reviewed the VPHP 2014 annual report with members. He noted that there is a liaison meeting following the Board meeting. He outlined anticipated areas of discussion, including the upcoming expiration of the contract and further discussion of engaging an external auditor to evaluate the program.

**13. Upcoming Board meetings, committee meetings, hearings, etc.: (Locations are subject to change. You will be notified if a change takes place.)**

- March 10, 2016, North Investigative Committee Meeting, 12 p.m., Vermont Department of Health, 108 Cherry Street, 3<sup>rd</sup> Floor, Conference Room 2C, Burlington, VT
- March 11, 2016, Central Investigative Committee Meeting, 9 a.m., National Life – North Building: Calvin Coolidge Conference Room – 6<sup>th</sup> Floor of the Deane C. Davis

Building, Montpelier, VT

- March 16, 2016, Board meeting on pending applications, 12:10 p.m., Board of Medical Practice office, 108 Cherry Street, 2<sup>nd</sup>, Floor Burlington, VT (and via telephone)
- March 16, 2016, South Investigative Committee Meeting, 12:00 p.m., Asa Bloomer State Office Building, 4th Floor, Room #492, Rutland, VT
- April 6, 2016, Licensing Committee Meeting, 10:30 a.m., Gifford Medical Center, Red Clover Conference Room, Randolph
- April 6, 2016, Board Meeting, 12 p.m., Gifford Medical Center, Red Clover Conference Room, Randolph

**14. Open Forum:**

**15. Adjourn:**

Ms. McClain made a motion to adjourn. Dr. Clattenburg seconded the motion. The motion passed; opposed: none; abstained: none; recused: none.

Meeting adjourned at 3:15 p.m.

**Attachments: Appendix A**

Respectfully submitted,

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Karen A. LaFond  
Medical Licensing & Operations Administrator

## **APPENDIX A**

### **Presentation of Applications**

**Mr. Hoser moved for the issuance of physician licenses and physician assistant licenses for:**

Albert Alexander, MD	Neeraj Chepuri, MD	Martha Graber, MD
Robert Gramling, MD	Ahmed Haque, MD	William Herold, MD
David Kupferberg, MD	Bryan Ng, MD	Betsy Piburn, PA-C
Marina Ravich, MD	Leigh Scarmardo, PA-C	Kristin Scott, PA-C
Diane Smith, MD	Stephen Surgenor, MD	Janessa Vandette, PA-C

Recommended by Dr. Clattenburg for licensure. Seconded by Dr. Reich. The motion passed; opposed: none; abstained: none; recused: none.

**Mr. Hoser moved for the issuance of Limited Temporary Physician licenses for:**

Jessica Weyer, MD

Recommended by Dr. Hayward for licensure. Seconded by Ms. McClain. The motion passed; opposed: none; abstained: none; recused: none.